

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

CHIEF HEARING OFFICER DIRECTIVE

DOCKET NO. 2020-229-E ORDER NO. 2021-10-H

JANUARY 29, 2021

CHIEF HEARING OFFICER: David Butler

DOCKET DESCRIPTION:

Dominion Energy South Carolina, Incorporated's Establishment of a Solar Choice Metering Tariff Pursuant to S.C. Code Ann. Section 58-40-20 (See Docket No. 2019-182-E)

MATTER UNDER CONSIDERATION:

Confidentiality of the Direct Testimonies of Brian Horii and Justin R. Barnes

CHIEF HEARING OFFICER'S ACTION:

In a January 22, 2021 transmittal letter, Jenny R. Pittman, Esquire, Counsel for the Office of Regulatory Staff ("ORS"), addressed confidentiality issues with regard to the Direct Testimony of ORS witness Brian Horii. Ms. Pittman noted that this testimony contains material that Dominion Energy South Carolina, Inc. ("DESC") labeled confidential during the discovery process. Accordingly, redacted and unredacted versions were filed with the Commission. Ms. Pittman noted, however, that while DESC maintains that the information it provided in discovery is confidential, it is unclear to ORS if the material provided as presented in Mr. Horii's Direct Testimony should be entitled to protection. Accordingly, ORS requested that the Commission grant DESC fourteen (14) days to allow DESC an opportunity to respond and indicate the specific portions of Mr. Horii's Direct Testimony that it believes are entitled to confidential protection and why such protection is warranted. Upon receipt of DESC's designations, Ms. Pittman states that ORS will make any changes necessary to the redactions and refile Mr. Horii's Testimony.

On a related matter, Jeffrey W. Kuykendall, Esquire, Counsel for Solar Energy Industries Association and North Carolina Sustainable Energy Association filed the Redacted Direct Testimony of Justin R. Barnes on behalf of his clients. Mr. Kuykendall stated that the testimony was redacted to remove references to information deemed confidential by DESC. Even though Mr. Kuykendall did not directly question confidentiality of the redacted material, a question arises as to whether or not the information deemed confidential by DESC and in Mr. Horii's testimony overlaps with information deemed confidential in Mr. Barnes' testimony, or not. Also, Mr. Kuykendall did not request that the unredacted version of Mr. Barnes' testimony be afforded confidentiality.

After due consideration of these matters, the request of ORS to give time to allow DESC an opportunity to respond and indicate specific portions of Mr. Horii's Direct Testimony that are entitled to confidential protection and why such protection is warranted is granted. Due

to time constraints, however, DESC will have seven (7) days from the date of this Order, or on or before February 5, 2021 to respond. Further, I hold that the same seven (7) day period shall be granted to allow DESC an opportunity to indicate specific portions of Mr. Barnes' testimony that it deems confidential and worthy of protection, and why such protection is warranted. DESC's responses shall be filed with the Commission and served on the parties on or before February 5, 2021.

Upon receipt of DESC's designations, ORS and Solar Energy Industries Association and North Carolina Sustainable Energy Association may review the designations and explanations. If ORS, Solar Energy Industries Association and/or North Carolina Sustainable Energy Association disagree with regard to the confidential nature of the material and the explanations of DESC, they may so indicate to the Commission within five (5) days of receipt of said explanations and designations. If these parties agree with the confidentiality designations, they may make any changes, if necessary, to the original redactions in their Direct Testimonies, and refile Mr. Horii's and Mr. Barnes' Direct Testimonies, respectively, within five (5) days of receipt of the designations. In the alternative, the parties may decide that no changes are necessary in their original filings, and they should so inform the Commission during the same timeframe. If these parties agree with DESC's designations, they should also request that the modified or unmodified unredacted Direct testimonies of Mr. Horii and/or Mr. Barnes be afforded confidential treatment and provide an explanation for their requests.

This ends the Chief Hearing Officer's Directive.